

Remarks / Discussion of Issues

In the final Office Action dated April 13, 2010, it is noted that claims 1 and 3-19 are pending, and stand rejected. Claims 1, 6, and 11 are independent claims. Claims 3-5 and 16-19 depend ultimately from claim 1; claims 7-10 depend from claim 6; and claims 12-15 depend from claim 11. Claim 2 was previously canceled.

By this response, claims 1, 3, 6, and 11 have been amended to clarify certain aspects of the subject matter and for non-statutory purposes. Support for the amendments to these claims is located at least at page 6, lines 5-6 of the specification as originally filed. No new subject matter has been added.

Cited Art

Cited art in this response includes US Patent 7,321,762 to Hoeben ("Hoeben"), IEEE Standard for Information Technology 802.11 (1999) "Part 11:Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) specifications: High-speed Physical Layer in the 5GHz Band" ("802.11-1999"), US Patent 7,272,1566 to Shoemake et al. ("Shoemake"), US Patent 7,415,046 to Beckman et al. ("Beckman"), US Patent 7,289,529 to Sherman ("Sherman"), and US Patent Publication 2005/0111402 to Sawada et al. ("Sawada").

Rejections under 35 U.S.C. §112

Claims 1-10 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. To advance prosecution and without conceding any subject matter, portions of the preamble have been deleted. Thus, the claims are not indefinite and the §112 rejections should be withdrawn.

Rejections under 35 U.S.C. §103

Claims 1, 3-10, 17, and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hoeben in view of 802.11-1999.

Applicants' claim 1 now recites in part,

"determining on each channel of the at least two channels that are an object of channel grouping whether each channel is one of either idle or that a back-off by the multi-channel device is underway,

transmitting a message including a preamble and header (PR) and a control section on each channel determined to be either idle or having the back-off underway of the at least two channels..."

Emphasis added.

Hoeben relates to a mechanism for reserving multiple channels of a single medium access control and physical layer (title). At col. 10 lines 31-38, Hoeben discloses a station which monitors channels and allegedly detects that the channels are idle. However, Hoeben does not disclose or suggest determining whether each channel is one of either idle or that a back-off by the multi-channel device is underway, as set forth in claim 1.

Furthermore, because Hoeben does not determine a channel being idle or having a back-off underway Hoeben cannot transmit a message on each channel determined to be either idle or having the back-off underway, as also recited in claim 1.

The cited reference 802.11-1999 was added to Hoeben as allegedly disclosing preambles and headers. However, 802.11-1999 does not disclose or suggest the features of claim 1 lacking in Hoeben, as discussed above. Therefore, the combination of Hoeben and 802.11-1999 does not teach or suggest all the limitations of claim 1.

Claims 3-5, 17 and 18 depend from claim 1 and include all the above discussed features of claim 1, plus additional distinguishing features. Accordingly, for at least the above reasons, claims 1 and 3-5, 17 and 18 are patentable over the combination of Hoeben and 802.11-1999.

Applicants' claim 6 recites in part,

"determining that a single one of the scanned channels is one of either idle or that a back-off by the multi-channel device is underway on the single channel,

blocking the single channel determined to be one of either idle or having the back-off underway to other devices by the multi-channel device by transmitting a message..." Emphasis added.

Independent claim 6 is different from claim 1 and must be interpreted according to the specific recited features. Although claims 1 and 6 are different and must be interpreted on their own merits, applicants essentially repeat the above arguments for claim 1 and apply them to independent claim 6.

As such, Applicants respectfully submit that claim 6 is allowable over the combination of cited art and respectfully requests the withdrawal of the rejection under 35 U.S.C. 103(a). Claims 7-10 depend from claim 6 and include all the above discussed features of claim 6, plus additional distinguishing features. Accordingly, for at least the above reasons, claims 7-10 are likewise patentable over the combination of Hoeben and 802.11-1999.

Claims 11-14 stand rejected under 35 U.S.C. §103(a) over Hoeben in view of 802.11-1999 and Sherman.

Independent claim 11 is different from claims 1 and 6. For example, claim 11 includes the features of determining on each channel channels of the at least two channels to be called upon for transmission whether each channel is one of either idle or that a back-off by the multi-channel device is underway. Although the claims must be interpreted on their own merits, applicants essentially repeat the above arguments for claim 1 and apply them to independent claim 11. Sherman does not cure the deficiencies of the combination of Hoeben and 802.11-1999 as noted above with respect to claim 1. As such, Applicants respectfully submit that claim 11 is allowable

over the combination of cited art and respectfully requests the withdrawal of the rejection of independent claim 11 under 35 U.S.C. 103(a). Claims 12-14 depend from claim 11 and include all the above discussed features of claim 11, plus additional distinguishing features. Accordingly, for at least the above reasons, claims 12-14 are patentable over the combination of Hoeben, 802.11-1999 and Sherman.

Claim 16 stands rejected under 35 U.S.C. §103(a) over Hoeben, 802.11-1999, and Beckman. Claim 19 stands rejected under 35 U.S.C. §103(a) over Hoeben, 802.11-1999, and Shoemake. Claim 15 stands rejected under 35 U.S.C. §103(a) over Hoeben, 802.11-1999, Sherman and Sawada.

With respect to the remaining dependent claims, the Office Action cites additional references as noted above. However, each of dependent claims 15, 16 and 19 depends upon an allowable independent base claim and inherits all of the features of the respective independent base claim.

The additional cited references do not cure the deficiencies as noted as applied to the respective independent base claim. Thus, each dependent claim is patentable for at least the same reasons discussed above with respect to its independent base claim, upon which it depends, with each dependent claim containing further distinguishing patentable features.

Conclusion

An earnest effort has been made to be fully responsive to the Examiner's correspondence and advance the prosecution of this case. In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance.

If there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 14-1270.

Respectfully submitted,

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